

## **REMARKS**

Claims 1 and 10 have been amended. Claims 1-19 are pending.

### **35 U.S.C. § 102 Rejections**

The Examiner has rejected claims 1, 2, 5 – 10, 13, 15, 16, 18, and 19 under 35 U.S.C. § 102(a) as being anticipated by Chao.

#### **Claims 1 and 10**

Claims 1 and 10 have both been amended to recite methods of forming an ARC layer on a hardmask layer, “*wherein the ARC layer comprises a different material than the hardmask layer.*” This amendment finds unambiguous support in the specification where Applicant teaches, “the ARC layer may be comprised of silicon dioxide” (Applicants paragraph [0023]) and “the hardmask may be a carbon-based layer.” (Applicants paragraph [0021]).

In contrast to the claimed methods, it is Applicant’s understanding that Chao merely teaches the hardmask and ARC layer to be comprised of the *same material* (Chao, paragraph [0026]). Therefore, unlike Applicant’s claimed method, Chao’s *single material* method is constrained by both the optical requirements of an ARC and the etch selectivity requirements of a hardmask. As Chao does not disclose an ARC comprising a different material than the hardmask material, Applicants respectfully submit that Chao does not anticipate all elements of independent claim 1 and independent claim 10.

Claims 2, 5-9, 13, 15, 16, 18, and 19 are dependent upon claims 1 and 10, respectively. Thus, for at least the same reasons advanced above with respect to independent claims 1 and 10, Applicant respectfully submits that Chao does not anticipate all elements of

dependent claims 23-24. Accordingly, Applicant respectfully requests the Examiner to remove the rejections of claims 1, 2, 5-10, 13, 15, 16, 18, and 19 under 35 U.S.C. § 102(a).

### **35 U.S.C. § 103 Rejections**

The Examiner has rejected claims 2-4, 11, 12 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Chao in view of Mahorowala. The Examiner has further rejected claims 7 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Chao in view of Kumar.

Applicant respectfully points out that Chau et al. (2005/0898821) was filed on November 10, 2003 and published on May 12, 2005 while the instant application was filed on March 24, 2004. Accordingly, the Chau et al. (2005/0898821) reference is a § 102(e) reference, and not a § 102(a) reference. Applicant respectfully submits that Chao and the instant application were commonly owned by, or subject to an obligation of assignment to, the same person, at the time the invention in the application for patent was made. Thus, under 35 U.S.C § 103(c), because the Chao reference qualifies as prior art only under one or more of subsections (e), (f), and (g) of 35 U.S.C § 102, Chao shall not preclude patentability under § 103.

Accordingly, Applicant respectfully requests withdrawal of the rejections of claims 2-4, 7, 11, 12, 14 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Chao in view of either Mahorowala or Kumar.

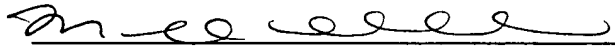
Applicant submits that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Michael A. Bernadicou at (408) 720-8300.

Pursuant to 37 C.F.R. § 1.136(a)(3), applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. §§ 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 2/14/06

  
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